

SOUTH JORDAN CITY
CITY COUNCIL MEETING

April 18, 2006

Present: Mayor Kent Money, Council Member Dave Colton, Council Member Larry Short, Council Member Brad Marlor, Council Member Brian Butters, Council Member Leona Winger, City Manager Rick Horst, ACM Municipal Services Rob Wall, ACM Public Safety Lindsay Shepherd, City Attorney John Geilmann, Deputy City Manager Gary Whatcott, Chief Operating Officer Laurie Tanner, Economic Development Director Doug Meldrum, City Council Secretary MaryAnn Dean

Others: Heather Darata, MaryAnn Mutsch, Jackie Short, Les J. Grimson Banks, Bradon Fennell, Austin Hansen, Mark Isaac, Todd Hadley, Jim Hess, Beverly Miller, Ray Lambert, Jeane Lambert, Suzanne Williams, Brad and Mary Andreason, Michael Martin, Verdi Schill, Joe Fullmer, Gary Edmunds, Paulette Hedrick, Kirk Brown, Dan Fallows, Tom Edmunds

5:30 P.M.

I. PRESENTATION

- A. Economic Development Review Presented by Martin Frey with the Governor's Office

Mayor Pro Tempore Marlor welcomed everyone present. He excused Mayor Money, who will be arriving shortly.

Council Member Winger introduced Martin Frey and Doug Clark with the Governor's office.

Mayor Money arrived at this point in the meeting.

Martin Frey gave an economic development presentation (Attachment A).

Council Member Marlor asked about the Governor's office helping companies that are just starting and needing money to grow. Mr. Frey said they have several programs in place to help those types of businesses and he reviewed those programs.

Doug Clark said they need to look to the future and see what South Jordan will be in 20, 50 and 75 years.

The Council discussed the growth and changes that have occurred in South Jordan in the last 20 years. The City Council did a strategic planning exercise with Mr. Clark. CM Horst said one weakness that the city has is its lack of diversity in its residents. Council

Member Marlor noted that the residents are educated and they have a high income per household.

The City Council discussed their efforts to keep lower densities. CM Horst said the homes built in South Jordan are generally the 2nd or 3rd homes for people. A weakness is that they don't attract new families or empty nesters.

The City Council discussed Sandy City's growth and some things that South Jordan wants to do differently. They discussed the importance of having a sustainable community. CM Horst said they also have to build a sustainable budget.

Council Member Colton expressed concern about the distribution of sales tax changing. He said the plans that they have formulated will disappear if that happens.

CM Horst discussed the importance of diversity in their workforce and having a daytime population.

Council Member Marlor discussed working on being a more economically sustainable community. He said they have made good strides in attracting quality businesses in the City.

The Council discussed their competitors in surrounding cities, as well as Washington County. CM Horst said the important thing is to get jobs to Utah because everyone benefits. He said it is important to determine what is South Jordan's niche.

The Council discussed what is different about South Jordan versus the surrounding communities. They discussed creating a sense of place, keeping property values high, having good Ordinances and good code enforcement. Overall planning and infrastructure is critical. CM Horst said they need diversity to attract the employees of the businesses that are coming to the City. They need for people to be able to afford to live in South Jordan. They discussed keeping the debt level and property taxes low.

The Council discussed what South Jordan has to offer and what will they have to offer in 30 years. They reiterated the importance of having a sustainable community. Council Member Colton said they have a peaceful existence. Council Member Winger said they are family friendly. Mayor Money said South Jordan has vision; it is a unique place. He said the City is something that the citizens, City Council, and staff believe in. He said growth gives them opportunities. He said they need to make sure that they make the best of what they have during the growth period. He said his biggest concern is the City's sustainability.

Mr. Clark asked if South Jordan plans to have a manufacturing base? CM Horst said maybe some light manufacturing as part of the Daybreak project. He said South Jordan's manufacturing will be more an extension of West Jordan's manufacturing base.

Mayor Money said they see high tech uses, office parks, and a research park in the City. Council Member Marlbor said he would like to pursue the life science concept, with medical uses, etc.

Mr. Clark asked how does the Jordan River greenway play into the City's plans? Mayor Money said it is a very important addition to the community. They are sensitive about that area. He discussed the purchase of Mulligans. He said they have put quality developments in the river bottom area. He said they have set the bar high for what they want to achieve in the City. The Council discussed the property that the City has preserved in the river bottoms.

Council Member Colton noted that they have a high standard for their architectural requirements. That will help keep their property values high.

Mr. Clark said they also need to consider the implications that the Mountain View Corridor will have versus the Bangerter Highway. He said the big box uses may want to move to the Mountain View Corridor. Mayor Money said the Bangerter Highway serves the current residents. The Mountain View Corridor will serve the additional residents that will come on the west side of the community. CM Horst said they won't have any big box developments over 100,000 sq. ft. on the Bangerter Highway. Mayor Money said he does not see South Jordan having a lot of big box developments because of their vicinity to West Jordan. Mayor Money discussed the town center planned in the Daybreak community by the Mountain View Corridor. He said they will be developing higher densities and light rail near the Mountain View Corridor.

Council Member Winger said South Jordan wants to be a good team player.

6:00 P.M.

REGULAR MEETING

I. SERVICE GROUP REPORT

A. None.

II. INFORMATIONAL ITEMS AND OTHER BUSINESS

A. CALENDARING ITEMS

Council Member Winger said the Newmont University Graduation is scheduled for May 26, 2006 at 1 p.m. The governor will be speaking.

Council Member Colton said on April 20, 2006 there is a ribbon cutting for Centennial Bank at 10:30 a.m. There is a tour of the water treatment facility at 5:30 p.m. for those that were unable to attend the last tour.

Council Member Colton noted the Daybreak Elementary dedication scheduled for April 25, 2006.

The Council discussed National Law Enforcement Week starting May 16th. The following week is Public Works Appreciation week.

B. COMMENTS FROM MAYOR AND MEMBERS OF THE CITY COUNCIL

1. Committee Reports

Council Member Short discussed the historical marker planned for the Old Fawn Flour Mill. He discussed the progress of the History Center. He said it will be a great place for the community. He said the Historical Committee is appreciative of the City's support.

Council Member Winger discussed the City's emergency preparedness plan. She said they need to make sure that the senior elected officials know the plan well and what their expectations are. Mayor Money said the City has to be prepared to be the first responder. He said they can't rely on other communities for the first few days.

Council Member Colton said the senior citizens have a very active program. There are three openings on the committee.

The Council met the potential candidates for the Senior Citizens Committee; MaryAnn Mutsch and Roland Arnold. Ms. Mutsch has been active in the senior citizens group. She has a desire to be involved in the leadership. Ms. Mutsch said she has lived in South Jordan for a little under 2 years. She is teaching computer classes for the senior citizens currently.

Mr. Arnold said he lives in Reunion Village. He has been a day director for the senior citizens for 5 years. He enjoys working at the community center.

Council Member Short said they also have a vacancy on the Board of Adjustments. He introduced Dan Fallows, potential candidate.

Dan Fallows, 2884 Quintail Cir., said he currently works for the Department of Public Safety as a civilian. He said he worked for the Utah Highway Patrol for 17 years. He served on the City's Public Safety Committee in the past.

C. CITY MANAGER BUSINESS

CM Horst asked the City Council to review the tentative budget.

D. NEW BUSINESS

None.

III. GENERAL BUSINESS

A. Welcome and Roll Call

Mayor Money welcomed everyone present.

Mayor Money recognized some scouts present. Scout Troop 517 was introduced. Other scouts (troop number not known) were introduced. Landen Jenkins, scout, was also introduced.

B. Opening Ceremony

1. Invocation

Council Member Colton offered the invocation.

2. Pledge of Allegiance

Dillon Papenfus, scout, led the audience in the Pledge of Allegiance.

C. Motion to Approve Amended Agenda Items, If Any

None.

D. Minute Approval

1. March 21, 2006

Council Member Short made a motion to approve the March 21, 2006 City Council minutes, as printed. Council Member Colton seconded the motion. The vote was unanimous in favor.

IV. AWARDS, PRESENTATIONS

A. None.

V. CITIZEN COMMENT

Devan Peterson, 9671 S. Chavez Dr., said when a fire alarm goes off in a home, sometimes it takes too long for the police to arrive. He said people could die and houses could burn down before the police get there.

Mayor Money said the City is part of the VECC 911 dispatch center. He said some businesses and a few homes will have a direct fire alarm. Most of the time, it requires people to call 911. CM Horst said the call goes to the VECC center and they determine who is the closest and can respond to the call the quickest. He said until the police get the phone call, they can't respond. He said the response time is generally 3-5 minutes and that is usually fast enough to prevent loss of life. He said one problem is that people use cell phones and they don't know where the person is calling from. Sometimes incorrect addresses are given. He said they are working on using satellites to determine the location of the cell phones.

CM Horst said the residents should not dial the fire department directly. He said the Fire Departments back each other up. ACM Shepherd said the closest unit responds to the fire. It may not always be the fire station on Redwood Road.

Kyle Shepherd, 1153 Country Park Cove, expressed concern that some teachers and administrators in their schools do strange things to motivate their students.

Mayor Money said the City doesn't supervise the schools. The Jordan School District has their own superintendent. He said the City manages the police and the crossing guards for the schools.

Ninoah Capelli, 11656 S. Patrick Cir., said he is concerned about roads. He said 11800 South needs work.

Mayor Money said that road belongs to South Jordan, Riverton, Herriman, and the County. CM Horst said the public works staff is trying to work on a plan with other jurisdictions regarding 11800 South. He said it is one of the worst roads in the City. Mayor Money said some of that road will be improved with the completion of The District.

Will Richardson, 11641 S. Country Crossing Road, said he is concerned that teachers aren't getting paid enough. Can the City do anything about that? Mayor Money said no. They have no say and no authority over the School District. He agreed that the teachers are probably not getting paid enough, but it is not something that the City can correct.

VI. SUMMARY ACTION CALENDAR

- A. Ordinance No 2006-07; Restricting Outdoor Culinary Water Use
- B. Resolution No. R2006-24; Authorizing the City to Provide Active Duty Military Personnel a Grant towards Payment of Utility Bills for Duration of Active Duty Military Service
- C. Review of Conditional Use Permit Issued to Tamara Baggett for a Home Occupation Pre-School in the Home for up to 12 Children located at 9668 South 2950 West

- D. Advisory Boards and Committees: Ordinance No 2006-09; Amending Title 2 Chapter 26 of the South Jordan Municipal Code. Resolution No R2006-23; Amending the South Jordan Procedural Guide for the Recruitment and Appointment of Citizens to Serve on City Advisory Boards and Committees

Council Member Marlor made a motion to remove items A. and C. from the Summary Action Calendar and to approve items B. and D. on the Summary Action Calendar. Council Member Colton seconded the motion. The vote was unanimous in favor.

VII. SUMMARY ACTION ITEMS HELD OVER

- A. Ordinance No 2006-07; Restricting Outdoor Culinary Water Use

Mayor Money said he fully supports the conservation of culinary water. He said he is concerned about the penalty portion of this Ordinance. He said they should have conservation in the community, but he wonders if they need to go to this degree since the current drought circumstances are improving.

Council Member Colton said he is concerned about the general concept of the Ordinance.

Council Member Winger said she is concerned about the restricted hours. She said she has not had adequate water pressure in the past. CM Horst said that is because everyone is using the water at the same time.

CM Horst said last year, the City Council approved a voluntary encouragement of water conservation. He said if people only conserve water when they are in a drought, people get out of the habit. He said the more they conserve, the better the water pressure that they have.

Mayor Money said they should put the word out that South Jordan continues to support a strong water conservation policy. He said they should also address issues with watering during the day. He said they should also address concerns with water pressures. He said he feels this should be a recommendation, and there should not be a penalty phase. Council Member Colton concurred. He said the graduated water fees are also a deterrent.

CM Horst said staff will move forward with the voluntary policy and an educational program. He said staff will bring the issue back if there are critical areas in the City that they have specific concerns about. Mayor Money concurred.

Council Member Colton made a motion to deny Ordinance No 2006-07, and to launch a conservation education program. Council Member Butters seconded the motion. The vote was unanimous in favor.

- C. Review of Conditional Use Permit Issued to Tamara Baggett for a Home Occupation Pre-School in the Home for up to 12 Children located at 9668 South 2950 West.

CM Horst said last year, when the City Council approved the Home Occupation license, they stipulated a one year timeframe to review it. He said they have had no complaints.

Council Member Colton made a motion to approve File #AP-2005-01, Conditional Use Permit Issued to Tamara Baggett for a Home Occupation Pre-School in the Home for up to 12 Children located at 9668 South 2950 West. Council Member Marlor seconded the motion. The vote was unanimous in favor.

VIII. PUBLIC HEARINGS AND POTENTIAL LEGISLATIVE ACTION ITEMS

- A. Public Hearing – Ordinance No. 2006-02; Amending Development Code, Title 16 with Requirements for Signs within the CF Zone. Ordinance No. 2006-03; Amending Title 16, Chapter 16.04, Section 16.04.340, Building Permits and Certifications of Occupancy. Ordinance No. 2006-06; Amending Section 17.84, Zoning with Requirements and Guidelines for Conditional Use Approvals.

ACM Wall reviewed the background information on this item.

Council Member Butters asked how do they keep track of how long banners are up? ACM Wall said the business is required to get a temporary sign permit.

Mayor Money asked if they have bonds in place for all development improvements, in case they have residents moving into a subdivision and a developer walks away from the project? ACM Wall said yes. He said the bond covers the full cost of the improvements to be installed.

ACM Wall noted that the Homebuilders Association liked the proposed Ordinance better than the City's current policy.

Council Member Short said sometimes adjacent residents want the fence installed before the construction begins. ACM Wall said the improvements have to be completed before the first certificate of occupancy is issued. CM Horst said they can't dictate if the wall is put in first or last. They can require a wall to be constructed if there is an issue that is construed to be a public hazard or if there are large animals, etc.

Mayor Money opened the public hearing. There were no comments. He closed the public hearing.

- B. Potential Action Item – (See VIII. A.) Ordinance No. 2006-02

Council Member Winger made a motion to approve Ordinance No. 2006-02. Council Member Butters seconded the motion. Roll call vote. The vote was unanimous in favor.

C. Potential Action Item – (See VIII. A.) Ordinance No. 2006-03

Council Member Colton made a motion to approve Ordinance No. 2006-03. Council Member Marlor seconded the motion. Roll call vote. The vote was unanimous in favor.

D. Potential Action Item – (See VIII. A.) Ordinance No. 2006-06

Council Member Butters made a motion to approve Ordinance No. 2006-06. Council Member Short seconded the motion. Roll call vote. The vote was unanimous in favor.

E. Public Hearing – Resolution No. R2006-21; Amending the Future Land Use Plan Map from Recreation/Open Space to Low Density Residential. Ordinance No. 2006-16-Z; Amending the City's Zoning Map from A-5 to R-2.5, Generally Located along the East Side of Bangerter Highway between 10000 South and 10200 South

ACM Wall reviewed the background information on this item. CM Horst said the issue is not completely dead, but it does not look favorable that they will get a park in this location. He said they are looking at the land further east. He said the citizens in this area only wanted the R-2.5 zoning. He said to get a park with that zoning, it would require the city to buy, trade, or get a gift of the land for a park.

Mayor Money noted that when the Ivory development was done, the City gave them a higher density on the entire parcel and the developer gave the City 4 acres for a park. He said this is a smaller piece of property. The land in this area has become very expensive.

Mayor Money opened the public hearing.

Michael Martin, 10086 S. 3490 W., said they have a presentation. The City Council determined to have the presentation at a later date, when there is more time.

Mr. Martin said the neighborhood is in favor of the proposed zoning. He said there may have been some things that could have been done to appease some of the people with the R-3 proposal. He said the residents are in favor of keeping the land use consistent. He said the entire field used to be zoned recreation/open space and people initially thought that it would all be a park. He said he would still like a park. He said people were concerned with the R-3 zoning and they were envisioning a fence about 15 feet from the home.

Council Member Colton asked if they do the R-2.5 zoning, the developer cannot donate land for a park? If they do an R-3 zoning, the developer can donate land for a park? Council Member Marlor said the proposal is for R-2.5. It was noted that the citizens, by in large, are in favor of the R-2.5 zoning. CM Horst said even if they move forward with the R-2.5 zoning, they can have additional dialog with the developer regarding the park.

Mr. Martin noted that there are no parks in the area. He was told to schedule his parks presentation with COO Tanner for a future Council meeting.

Mayor Money closed the public hearing.

F. Potential Action Item – (See VIII. E.) Resolution No. R2006-21

Council Member Marlor made a motion to adopt Resolution No. R2006-21. Council Member Winger seconded the motion. Roll call vote. The vote was unanimous in favor.

G. Potential Action Item – (See VIII. E.) Ordinance No. 2006-16-Z

Council Member Colton made a motion to adopt Ordinance No. 2006-16-Z. Council Member Butters seconded the motion. Roll call vote. The vote was unanimous in favor.

IX. PUBLIC HEARINGS AND POTENTIAL ADMINISTRATIVE ACTION ITEMS

A. Public Hearing – Ordinance No. 2006-14-Z; Amending the City's Zoning Map from RM-6 to RM-5, Located at Approximately 3800 West 10800 South.

ACM Wall reviewed the background information on this item.

Mayor Money opened the public hearing. There were no comments. He closed the public hearing.

B. Potential Action Item – (See IX. A.) Ordinance No. 2006-14-Z

Council Member Winger made a motion to approve Ordinance No. 2006-14-Z. Council Member Colton seconded the motion. Roll call vote. The vote was unanimous in favor.

C. Public Hearing – Ordinance No. 2006-15-Z; Amending the City's Zoning Map from A-5 to R-2.5, Located at Approximately 9670 South 1800 West.

ACM Wall reviewed the background information on this item.

It was noted that this property is just north of the EDA area.

Mayor Money opened the public hearing. There were no comments. He closed the public hearing.

D. Potential Action Item – (See IX. C.) Ordinance No. 2006-15-Z

Council Member Short made a motion to approve Ordinance No. 2006-15-Z. Council Member Butters seconded the motion. Roll call vote. The vote was unanimous in favor.

E. Public Hearing – Ordinance No. 2006-17-Z; Amending the City's Zoning Map from R-1.8 to A-5, Located at Approximately 11028 South 2200 West.

ACM Wall reviewed the background information on this item. He said this zone change would allow a larger barn to be built on the property.

Mayor Money asked if there is a motorcycle track on this property? **Lane Myers**, representing Alfred Nelson (applicant), said the motorcycle track is in the back yard of one of the adjacent residences. He said the property west of the canal is being used as a retention pond.

Council Member Short said the only gate to the parcel west of the canal is from the canal road; it is accessed from Triple Crown Estates.

Council Member Butters asked if the pond will remain? He was told yes. Council Member Short said the property is unusable for anything else.

CM Horst clarified that any action taken tonight does not allow a barn to be built.

ACM Wall said there are currently 5 horses on the lot. The property owner would have to get a conditional use permit to determine the number of horses allowed with the new zoning.

Council Member Short asked what is the size of the existing storage barn? Mr. Myers said he is not sure.

It was noted that Mr. Nelson is not living in the existing house on the property.

Mr. Myers said this 5 acres was supposed to remain as Agricultural. There was a clerical error. He said he has a contract with the developer of Triple Crown Estates; it stated that a portion of Mr. Nelson's property could be used as a detention pond. The contract also stated that Mr. Nelson intended to put horses or stables on this property at some time.

CM Horst noted that Triple Crown Estates is zoned for animals, but the CC and R's don't allow large animals.

Mr. Myers said he has helped Mr. Nelson improve the property. There are horses on the property; it varies from 5-10 horses. The plan was to finish the property with a use that is conducive to the area. He said the indoor arena on the proposed barn has stretched the size of the barn. It was noted that the barn issue would come forward at a later date. Mr. Myers said they plan to landscape the property and finish it with curb and gutter.

Mayor Money asked if there is access from the property east of the canal to the retention pond? Mr. Myers said no. CM Horst said there is no possibility of boarding horses on that piece of property. Mr. Myers said there is a canal road on the west side, and now there is one on the east side as well.

Mayor Money opened the public hearing. There were no comments. He closed the public hearing.

F. Potential Action Item – (See IX. E.) Ordinance No. 2006-17-Z

Council Member Short discussed the 5 acre parcel. He noted that much of the property is unusable for horses. He showed where the fences and barns are located. Mayor Money said a barn could be placed on the north side of the property.

Council Member Colton asked about access to the weir. Mr. Myers said the weir is abandoned. There is a walkway access to the weir.

Council Member Marlbor made a motion to approve Ordinance No. 2006-17-Z. Council Member Colton seconded the motion. Roll call vote. The vote was 4-1 in favor, with Council Member Short opposed.

Council Member Marlbor made a motion to take a break. Council Member Colton seconded the motion. The vote was unanimous in favor.

X. OTHER BUSINESS

A. Clarification of Intent and Purpose of City Council Reports Posted to the South Valley Journal

Council Member Marlbor said he feels like the purpose for the City Council's articles in the South Valley Journal is to communicate and provide a positive public relations opportunity for the citizens. He said he felt that the last article was erroneous and divisive. He said it was very negative. He does not feel that is the purpose of those articles. He said he is willing to discuss this issue, or in the future, the articles should be approved by the majority of the Council and submitted by the City Manager.

It was noted that CM Horst gave the Council some clarifications and answers to questions as a result of that article. That needs to be communicated to the public.

Council Member Winger said she is not in favor of censoring the articles. She said she believes in freedom of speech. She said she hopes that the articles promote the City and represent the City Council. Council Member Marlors said it is different when someone writes a letter to the editor and it comes from an individual. He said these reports say that they are South Jordan Council reports.

Council Member Short said he did not feel that he was being negative with his article. He does not have a personal vendetta. He said he just felt that there were some issues to be looked at. He has not had any negative feedback from the article. He is not trying to downgrade what the City Council does. He said there are reasons to have and use development agreements, but the public needs as much say as they can have.

Council Member Marlors said the article could have been written in a way that wasn't confusing. They need to help people understand issues instead of saying that the City is not doing it right and that the issues are confusing and that the public is being stomped on.

CM Horst said the newspaper titles the section City Council reports. Some cities send the articles collectively; some are written individually.

Mayor Money said he has a problem with censorship. He does not feel that Council Member Short had negative connotations in mind. Council Member Butters and Council Member Marlors both indicated that they have had negative feedback from the article. Mayor Money said the article came across to him that Council Member Short is in a learning stage. He said his problem with the article is that it was too open and searching for answers.

Mayor Money said the higher purpose for the City Council is to do what is the best for the City. He said they may not all agree. They learn from each other. At the end of the issue, they forget it and get together on the next issue. He said he has not seen this City Council hold grudges since he has been Mayor.

Council Member Colton said some direction maybe should be given to the new City Council Members to encourage them to sell the City with their articles. Mayor Money said there were just some misunderstandings with this situation. They should move on.

Council Member Marlors said they should either write their letters to the editor individually, or the City Council reports should be positive, informative articles. He said he does not want to attach his name to negative articles. Mayor Money said if there are concerns, that can be expressed in City Council meetings.

B. City Board / Committee Member Term Expirations – Appointments
and/or Reappointments

Council Member Colton made a motion to nominate MaryAnn Mutsch to serve on the Senior Citizens Committee, replacing Elray Lundscog and to fill the balance of his term. Council Member Winger seconded the motion. The vote was unanimous in favor.

Council Member Butters made a motion to nominate Roland Arnold to serve on the Senior Citizens Committee, replacing Charles Blouch. Council Member Winger seconded the motion. The vote was unanimous in favor.

Council Member Short made a motion to nominate Dan Fallows to serve on the Board of Adjustments. Council Member Winger seconded the motion. The vote was unanimous in favor.

- C. Application to Appeal the Decision of the City's Planning Commission on 2/28/2006 Concerning Access Through River Park Corporate Center (University of Southern Nevada Site, 10962 South River Front Parkway) to the Property Directly West.

City Attorney Geilmann said this is the appeal of the Planning Commission's decision. He reviewed the procedures for this appeal. He said this is not a public hearing. They discussed allowing each side to make a presentation. Mayor Money asked when is the appropriate time for the City Council to ask questions? City Attorney Geilmann said after both sides have made their presentations.

Mike Hutchings, representing the Edmunds family who owns property west of RiverPark 10. He said the Edmunds would like to require an access driveway or a public street along the south side of the proposed site plan. He said requiring the stub road, or an access drive along the south side, would not negatively impact the development in any particular way. Once they saw the proposed site plan, it became apparent that this would be the best and most expeditious access to their property.

Mr. Hutchings referred to section 16.26.20 of the City's Ordinances that says, all new developments, except where privately controlled access is approved, shall have access to a public street. Any development requiring site plan or plat approval shall meet the minimum street and access requirements of this chapter. In subparagraph D., it says reciprocal and shared driveways shall be required as deemed necessary by the City Council. All such driveways and accesses shall be documented with easements and/or agreements recorded with the Salt Lake County Recorder.

Mr. Hutchings also referred to the City Code, section 16.04.180 that says, the following requirements pertaining to streets shall be incorporated into subdivision, condominium, SRD, and site plan design and implemented by the developer. One requirement in subparagraph d. says subdivisions and other developments shall be designed to provide future access to adjoining vacant parcels, where appropriate, with driveways and stub streets built to city standards. It further states that developments shall also be designed so

that existing stub streets and driveways in existing development will be connected to the proposed streets and accesses.

Mr. Hutchings said in this case, they have a developer that is refusing to provide a stub street. It is the policy of South Jordan City to require stub streets all throughout the City. There are numerous stub streets that have been required by the City over time. He said the Planning Director indicated to him that since he has been at the City, there has never been an occasion where a developer has refused to provide a stub street.

Mr. Hutchings said he believes that the developer won't provide the stub street because they don't want the competition. He said he does not feel that is an appropriate issue for the City Council to consider; competition is inherently good. He said the landowners are intent on building quality office buildings, in harmony with what is being built in the RiverPark development. The landowners are willing to pay their way. Access through the proposed site plan is the best and most expeditious way to provide public access to a street.

Mr. Hutchings said the City has required shared access in the Copper Ridge Office Park, the Albertson's grocery store, and the Astro Burger development. He said it has been the policy of the City to require stub streets and access agreements. He asked that the City implement their policy, and what he believes is required by the mandatory language in the city code. He said he believes the law that is there is for a good purpose and that is to not land lock adjoining property owners. He said they don't see any negative impact to RiverPark, whatsoever. He asked that the City Council give them the access agreement at the south end of the site plan.

Vic Taylor, real estate lawyer with Parr Waddaps in Salt Lake City (read a prepared statement and gave permission for it to be attached (Attachment B)). Mr. Taylor showed a map of the area, including their property and the Edmunds' property.

Mr. Taylor said that Mayor Money has indicated in past meetings that he was concerned about the lack of an overall development plan, and he wondered if the city was premature in granting the zoning change on the Edmunds' parcel because there was no overall plan. He discussed the need for a master plan for the land west of RiverPark.

Mr. Hutchings said they have been told by city staff that allowing access to 1055 West won't work for purposes of the office park that the Edmunds wish to build. He said he does not believe this is a taking. He said the Nolan and Dolan case makes it clear that any developer can be required to provide certain benefits that are roughly proportionate to the development. He believes in this case, the rough proportionality would be the stub road or access drive to be allowed against the Edmunds' property on the southern end. There is already a driveway planned in that area; they are just asking that the driveway be extended to the Edmunds' property and that Edmunds be allowed to have access. He believes that can be done with a reciprocal easement agreement, which the city has required of other developments and which the city's law allows and he believes the law requires. He said if this is an unconstitutional taking, the city has a far greater problem

and that is all the other people that the city has required to build stub roads all these years, pursuant to mandatory language in the city Ordinance. He said the city has never had a circumstance like this before where a developer is refusing to provide access for anti-competitive reasons. He said they have made efforts to work out the access issue, but they have been re-buffed. He said they do not see a burden to RiverPark. How is RiverPark impacted negatively? He asked the City Council to rule in favor of the city Ordinances and their policy, which requires stub roads and cross access easements between adjoining landowners.

Mayor Money said with the potential litigious atmosphere, he is concerned about putting the city in a negative light with the questions that they ask. City Attorney Geilmann said the City Council is acting in a quasi judicial capacity. They can ask questions about the presentations. If they feel like there are issues that need to be addressed internally, the City Council could go into an executive session to discuss that.

The City Council looked at the site plan to determine where the proposed driveway is to be located.

Mayor Money asked how large is the University of South Nevada's building? **Kent England**, RiverPark, said 119,000 sq. ft. Mayor Money asked how many parking stalls are on the site? Mr. England said close to 500, for both students and faculty. It was noted that the parking requirement is higher for this use than a typical office building. Mayor Money said the site plan does not show the width necessary for an ingress/egress for an additional office building.

Mr. Hutchings said the width of the driveway is 29 ft. With very little effort, it could be adjusted to provide the access that the Edmunds are asking for. He said if there was any loss of parking stalls, the Edmunds are willing to trade ground and make up for any lost parking stalls to the applicants. He said the Edmunds' property is closer to entrances than any parking stalls that they would lose as a result of the re-configuration or widening of the driveway or the stub road. He said RiverPark would pick up better parking.

Kent England said when they do a site plan, they balance the landscaping and parking requirements with the footprint of the building. Although Mr. Hutchings said it is not a problem to just adjust the site plan, they go to great lengths to make sure that their site plans meet the requirements and the city needs. Of course it is not a problem for Mr. Hutchings, because RiverPark is doing all the work re-adjusting. He said they have presented a site plan that meets all of the city requirements. They do have future buildings designed to the north so every parking stall and every bit of landscaping counts. He said the problem is that this is not a mutual and reciprocal arrangement; it is entirely beneficial for one party. He said all of the problems go to RiverPark and all of the benefits go to Edmunds.

Council Member Colton asked if Edmunds have explored the option of access to the north? Mr. Hutchings said they can provide access over the canal from the north to the Edmunds property, but that is fraught with problems. They would have to cover the

canal, make agreements with the canal company; there are engineering concerns and a lot of extra expense. They would also be bringing people onto the Edmund's property in a more circuitous way rather than bringing them onto the property in a more direct way associated with this request. He said 1055 West won't work for various reasons. Mr. Hutchings said they feel that as adjoining landowners, they are entitled to the access. He said they are willing to pay their share and work this issue out. He said RiverPark has indicated that they are not willing to give an access at any price.

Mayor Money said they have done some wise planning in the area by allowing for the existing stub roads in RiverPark. He said they have not allowed a stub road to every existing property to the west. He said he feels the real issue is timing. He said the Edmunds would like to develop their property sooner than what the timing issue will allow for the rest of the property around them. At some point, the city should look at the whole quadrant and see what the future use of that property is going to be.

Council Member Marlbor asked how is the desired access reciprocal in nature? Mr. Hutchings said RiverPark 10 will be able to use this driveway for their own purposes to get into their own parking lot. The Edmunds would like to use the access to their property to the west so they will both have use of their property. Mr. Hutchings said they are willing to allow some of their property to be used for parking for RiverPark. He said that is valuable given the nature of the building and the close proximity of the property to the RiverPark property.

Mr. Taylor said the Edmund's proposal confers no benefit to them and they are not looking for any use of the Edmund's property.

Council Member Marlbor asked how Mr. Hutchings sees no burden being placed on RiverPark? Mr. Hutchings said he does not see any burden of any depreciable degree. He has not heard RiverPark articulate a burden, except that they don't want any competition. That is the only burden that he is aware of. He said he does not see how the stub road negatively effects the site plan, the use, and the utility of their property. He said he does not think it is a burden especially in light of the city codes requirement to provide access to adjoining vacant parcels.

Council Member Marlbor said it appears to him that RiverPark has complied with the letter of the law regarding stub roads. He asked if reciprocal driveways are typically shared as far as the burden of the cost? CM Horst said there are times when there is payment; other times they feel that there is mutual benefit and they share in the cost. In the past, these issues have predominately been worked out by developers prior to coming to the City Council.

Mayor Money asked if the Edmunds are willing to pay fair market value of the property, plus the cost of all utilities getting them to the site? Mr. Hutchings said they have made offers in the past, but they have been re-buffed. He said the Edmunds currently don't have a stub road to connect to. They are willing to be fair and reasonable to pay money to make things right. Mayor Money said that logic could be used for all property west of the

canal, that they don't have a stub road off of RiverPark connecting their properties either. Mr. Hutchings said he believes that the ordinances and the practices of the city requires the access. He believes any adjoining landowner can ask the city for access. He said the appropriate time to do that is during the site plan. Most of the time, the matters are worked out ahead of time.

Mayor Money asked if Mr. Hutchings would agree that the Edmunds property is not land locked? Mr. Hutchings said he believes it is land locked. 1055 West provides an access, but it cannot accommodate the kind of access that is needed for the O-S zone. He said there could be future construction to accommodate that, but staff has said that is not the best alternative. He said there is also a disagreement as to whether the Edmunds have a contractual right to access.

Council Member Marlbor said it appears that the cost of access goes beyond the strip of land that would connect RiverPark to Edmunds. There is a lot of infrastructure cost that goes from this point to 10600 South. There is a burden of cost that has been placed on RiverPark to put in all of that infrastructure. Mr. Hutchings said they are willing to pay their proportionate share for those costs. There would be costs of sewer, water, and storm drain. The developers of RiverPark have entered into reimbursement agreements with the City and, to some degree, have been reimbursed for some of the improvements that they have put in through impact fees and other mechanisms. He said they are not asking for a free ride.

Council Member Colton said at the time of rezoning of the Edmunds parcel, the question of access was repeatedly raised, but they were told that they could not ask those questions because it was not the site planning process. He said he felt that it was a major issue with this piece of land. He asked if they should look at those kinds of issues when they look at zoning changes? He said when they changed the zoning, they have landlocked the property. City Attorney Geilmann said he would answer that question at the appropriate time, when it is not site specific.

Council Member Marlbor made a motion to go into closed meeting to discuss matters pertaining to litigation. Council Member Butters seconded the motion. The vote was unanimous in favor.

CLOSED MEETING

Council Member Marlbor made a motion to come out of closed meeting. Council Member Colton seconded the motion. The vote was unanimous in favor.

Mayor Money called for questions and discussion on this issue.

Council Member Winger recused herself from the vote. She said she serves on the Executive Board and the Board of Trustees for the University of Southern Nevada.

Council Member Marlor noted that David Layton, one of the owners of RiverPark is his brother in law. He said he is also good friends with Gary Edmunds and his family. He said he has no other tie with either party. He said he does not feel that he needs to recuse himself.

Mayor Money said he hopes that the parties could have gotten together and worked this issue out.

Council Member Butters made a motion that based upon the record that has been made in this meeting by representatives of RiverPark, University of Southern Nevada, and representatives of the Edmunds property, they find it in the best interest of the City of South Jordan to deny the Edmunds' appeal, and the decision of the Planning Commission to approve the University of Southern Nevada site plan without access to the Edmunds' property be affirmed and the site plan as presented be approved. Council Member Colton seconded the motion. Roll call vote. The vote was 4-0 in favor, with Council Member Winger recusing herself.

ADJOURNMENT

Council Member Winger made a motion to adjourn. Council Member Marlor seconded the motion. The vote was unanimous in favor.

The April 18, 2006 City Council meeting adjourned at 9:56 p.m.

This is a true and correct copy of the April 18, 2006 City Council meeting minutes, which were approved on May 2, 2006.


South Jordan City Recorder

CERTIFICATE OF POSTING

I, Anna M. West, do hereby certify that I am the duly appointed, qualified and acting City Recorder for South Jordan City, State of Utah, and do further certify that a true and correct copy of the South Jordan City Council Agenda for the meeting held on 18 April, 2006 at 6:00 p.m. was posted at the South Jordan City Office located at 1600 W. Towne Center Drive, where the referenced meeting was held, at least 24 hours prior to such meeting. The agenda was also posted at the South Jordan Library located at 10673 South Redwood Road, at the South Jordan Fire Station #61 located at 10758 South Redwood Road, at the South Jordan Fire Station #62 located at 4000 West South Jordan parkway, at the South Jordan Post Office located at 10102 South Redwood Road, at www.sjc.utah.gov. I also certify that a true and correct copy of the South Jordan City Council Agenda was provided to the media at least 24 hours prior to such meeting, specifically the Desert News and the Salt Lake Tribune.

Dated this 14 day of April 2006.



Anna M. West
South Jordan City
City Recorder

AGENDA

Special Meeting & Regular Meeting of

The South Jordan City Council

For

April 18, 2006

City Council Chambers
South Jordan City Hall
1600 W. Towne Center Drive

5:30 P.M. – Special Meeting
6:00 P.M. – Regular Meeting

Cellular Phones and Pagers Must be Turned Off, or Set to Vibrate Only
Upon Entering the City Council Chambers

Council Member David W. Colton
Council Member Larry Short
Council Member Bradley G. Marlor
Council Member Brian C. Butters
Council Member Leona Winger



Mayor W. Kent Money

City Manager Ricky A. Horst

1600 West Towne Center Drive / South Jordan, UT 84095/ Telephone (801) 254-3742 / Fax (801) 254-3393

e-mail: info@ci.south-jordan.ut.us <http://sjc.utah.gov>

AGENDA

CITY OF SOUTH JORDAN CITY COUNCIL MEETING

APRIL 18, 2006

NOTICE IS HEREBY GIVEN THAT THE SOUTH JORDAN CITY COUNCIL WILL HOLD ITS REGULAR MEETING ON TUESDAY, APRIL 18, 2006, IN THE CITY COUNCIL CHAMBERS, 1600 W. TOWNE CENTER DRIVE, SOUTH JORDAN, UTAH. PERSONS WITH DISABILITIES WHO MAY NEED ASSISTANCE SHOULD CONTACT THE DEPUTY CITY MANAGER AT 254-3742 AT LEAST 24 HOURS PRIOR TO THIS MEETING. A CLOSED MEETING MAY BE HELD AT THE END OF THE MEETING, IF NEEDED. THE REGULAR MEETING WILL BEGIN AT 6:00 P.M. AND THE AGENDA WILL BE AS FOLLOWS:

5:30 P.M.

SPECIAL MEETING

1. PRESENTATION

- A. Economic Development Review Presented by Martin Frey with the Governor's Office

6:00 P.M.

REGULAR MEETING

I. SERVICE GROUP REPORT

- A. None

II. INFORMATIONAL ITEMS AND OTHER BUSINESS

A. CALENDARING ITEMS

B. COMMENTS FROM MAYOR AND MEMBERS OF THE CITY COUNCIL

- 1. Committee Reports

C. CITY MANAGER BUSINESS

D. NEW BUSINESS

III. GENERAL BUSINESS

A. Welcome and Roll Call

B. Opening Ceremony

- 1. Invocation
- 2. Pledge of Allegiance

C. Motion to Approve Amended Agenda Items, If Any

D. Minute Approval

- 1. March 21, 2006

IV. AWARDS, PRESENTATIONS

- A. None

V. CITIZEN COMMENT

Any person wishing to comment on any item not otherwise on the Agenda may address the City Council at this point by stepping to the microphone and giving his or her name and address for the record. Speaker cards should be filled out in advance and given to the City Manager. Comments should be limited to not more than three (3) minutes, unless additional time is authorized by the Governing Body. Citizen groups will be asked to appoint a spokesperson. This is the time and place for any person who wishes to comment on non-hearing, non-Agenda items. Items brought forward to the attention of the City Council will be turned over to staff to provide a response outside of the City Council meeting. Time taken on non-agenda items, interrupts the process of the noticed Agenda. In rare cases where it is determined appropriate to address items raised from Citizen Comments, these items will be noted and be brought back at the conclusion of the printed agenda.

VI. SUMMARY ACTION CALENDAR

ALL MATTERS LISTED ON THE SUMMARY ACTION CALENDAR ARE CONSIDERED TO BE ROUTINE AND WILL BE ENACTED BY ONE ROLL CALL VOTE. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS UNLESS MEMBERS OF THE GOVERNING BODY OR STAFF REQUEST SPECIFIC ITEMS BE REMOVED FROM THE SUMMARY ACTION CALENDAR FOR SEPARATE DISCUSSION AND ACTION.

- A. Ordinance No 2006-07; Restricting Outdoor Culinary Water Use
- B. Resolution No. R2006-24; Authorizing the City to Provide Active Duty Military Personnel a Grant towards Payment of Utility Bills for Duration of Active Duty Military Service.
- C. Review of Conditional Use Permit Issued to Tamara Baggett for a Home Occupation Pre-School in the Home for up to 12 Children located at 9668 South 2950 West.
- D. Advisory Boards and Committees: Ordinance No 2006-09; Amending the Title 2 Chapter 26 of the South Jordan Municipal Code. Resolution No R2006-23; Amending the South Jordan Procedural Guide for the Recruitment and Appointment of Citizens to Serve on City Advisory Boards and Committees.

VII. SUMMARY ACTION ITEMS HELD OVER

Should any items be removed from the Summary Action Calendar for discussion, they will be discussed at this time.

VIII. PUBLIC HEARINGS AND POTENTIAL *LEGISLATIVE ACTION ITEMS

*Legislative Action = More Discretion, Reasonably Debatable (Subjective Standard)

- A. Public Hearing – Ordinance No. 2006-02; Amending Development Code, Title 16 with Requirements for Signs within the CF Zone. Ordinance No. 2006-03; Amending Title 16, Chapter 16.04, Section 16.04.340, Building Permits and Certifications of Occupancy. Ordinance No. 2006-06; Amending Section 17.84, Zoning with Requirements and Guidelines for Conditional Use Approvals. Staff Presentation by A.C.M. Municipal Services Rob Wall.
- B. Potential Action Item – (See VIII. A.) Ordinance No. 2006-02
- C. Potential Action Item – (See VIII. A.) Ordinance No. 2006-03
- D. Potential Action Item – (See VIII. A.) Ordinance No. 2006-06

- E. Public Hearing – Resolution No. R2006-21; Amending the Future Land Use Plan Map from Recreation/Open Space to Low Density Residential. Ordinance No. 2006-16-Z; Amending the City's Zoning Map from A-5 to R-2.5, Generally Located along the East Side of Bangerter Highway between 10000 South and 10200 South.
- F. Potential Action Item – (See VIII. E.) Resolution No. R2006-21
- G. Potential Action Item – (See VIII. E.) Ordinance No. 2006-16-Z

IX. PUBLIC HEARINGS AND POTENTIAL **ADMINISTRATIVE ACTION ITEMS

**Administrative Action = Less Discretion, Substantial Evidence (Objective Standard)

- A. Public Hearing – Ordinance No. 2006-14-Z; Amending the City's Zoning Map from RM-6 to RM-5, Located at Approximately 3800 West 10800 South. Staff Presentation by A.C.M. Municipal Services Rob Wall. Applicant Presentation by South Jordan Real Estate Development LLC, Representative.
- B. Potential Action Item – (See IX A.) Ordinance No. 2006-14-Z
- C. Public Hearing – Ordinance No. 2006-15-Z; Amending the City's Zoning Map from A-5 to R-2.5, Located at Approximately 9670 South 1800 West. Staff Presentation by A.C.M. Municipal Services Rob Wall. Applicant Presentation by New West Land & Development / Mark Isaac.
- D. Potential Action Item – (See IX C.) Ordinance No. 2006-15-Z
- E. Public Hearing - Ordinance No. 2006-17-Z; Amending the City's Zoning Map from R-1.8 to A-5, Located at Approximately 11028 South 2200 West. Staff Presentation by A.C.M. Municipal Services Rob Wall. Applicant Presentation by Alfred Nelson.
- F. Potential Action Item – (See IX E.) Ordinance No. 2006-17-Z

X. OTHER BUSINESS

- A. Clarification of Intent and Purpose of City Council Reports Posted to the South Valley Journal. Presentation by Council Member Brad Marlor.
- B. City Board / Committee Member Term Expirations – Appointments and/or Reappointments. Staff Presentation by City Manager Rick Horst.
- C. Application to Appeal the Decision of the City's Planning Commission on 2/28/2006 Concerning Access Through River Park Corporate Center (University of Southern Nevada Site, 10962 South River Front Parkway) to the Property Directly West. Staff Presentation by City Attorney John Geilmann.

ADJOURNMENT

SOUTH JORDAN CITY
CITY COUNCIL MEETING

April 18, 2006

Present: Mayor Kent Money, Council Member Dave Colton, Council Member Larry Short, Council Member Brad Marlor, Council Member Brian Butters, Council Member Leona Winger, City Manager Rick Horst, ACM Municipal Services Rob Wall, ACM Public Safety Lindsay Shepherd, City Attorney John Geilmann, Deputy City Manager Gary Whatcott, Chief Operating Officer Laurie Tanner, Economic Development Director Doug Meldrum, City Council Secretary MaryAnn Dean

Others: Heather Darata, MaryAnn Mutsch, Jackie Short, Les J. Grimson Banks, Bradon Fennell, Austin Hansen, Mark Isaac, Todd Hadley, Jim Hess, Beverly Miller, Ray Lambert, Jeane Lambert, Suzanne Williams, Brad and Mary Andreason, Michael Martin, Verdi Schill, Joe Fullmer, Gary Edmunds, Paulette Hedrick, Kirk Brown, Dan Fallows, Tom Edmunds

5:30 P.M.

I. PRESENTATION

- A. Economic Development Review Presented by Martin Frey with the Governor's Office

Mayor Pro Tempore Marlor welcomed everyone present. He excused Mayor Money, who will be arriving shortly.

Council Member Winger introduced Martin Frey and Doug Clark with the Governor's office.

Mayor Money arrived at this point in the meeting.

Martin Frey gave an economic development presentation (Attachment A).

Council Member Marlor asked about the Governor's office helping companies that are just starting and needing money to grow. Mr. Frey said they have several programs in place to help those types of businesses and he reviewed those programs.

Doug Clark said they need to look to the future and see what South Jordan will be in 20, 50 and 75 years.

The Council discussed the growth and changes that have occurred in South Jordan in the last 20 years. The City Council did a strategic planning exercise with Mr. Clark. CM Horst said one weakness that the city has is its lack of diversity in its residents. Council

Member Marlor noted that the residents are educated and they have a high income per household.

The City Council discussed their efforts to keep lower densities. CM Horst said the homes built in South Jordan are generally the 2nd or 3rd homes for people. A weakness is that they don't attract new families or empty nesters.

The City Council discussed Sandy City's growth and some things that South Jordan wants to do differently. They discussed the importance of having a sustainable community. CM Horst said they also have to build a sustainable budget.

Council Member Colton expressed concern about the distribution of sales tax changing. He said the plans that they have formulated will disappear if that happens.

CM Horst discussed the importance of diversity in their workforce and having a daytime population.

Council Member Marlor discussed working on being a more economically sustainable community. He said they have made good strides in attracting quality businesses in the City.

The Council discussed their competitors in surrounding cities, as well as Washington County. CM Horst said the important thing is to get jobs to Utah because everyone benefits. He said it is important to determine what is South Jordan's niche.

The Council discussed what is different about South Jordan versus the surrounding communities. They discussed creating a sense of place, keeping property values high, having good Ordinances and good code enforcement. Overall planning and infrastructure is critical. CM Horst said they need diversity to attract the employees of the businesses that are coming to the City. They need for people to be able to afford to live in South Jordan. They discussed keeping the debt level and property taxes low.

The Council discussed what South Jordan has to offer and what will they have to offer in 30 years. They reiterated the importance of having a sustainable community. Council Member Colton said they have a peaceful existence. Council Member Winger said they are family friendly. Mayor Money said South Jordan has vision; it is a unique place. He said the City is something that the citizens, City Council, and staff believe in. He said growth gives them opportunities. He said they need to make sure that they make the best of what they have during the growth period. He said his biggest concern is the City's sustainability.

Mr. Clark asked if South Jordan plans to have a manufacturing base? CM Horst said maybe some light manufacturing as part of the Daybreak project. He said South Jordan's manufacturing will be more an extension of West Jordan's manufacturing base.

Mayor Money said they see high tech uses, office parks, and a research park in the City. Council Member Marlbor said he would like to pursue the life science concept, with medical uses, etc.

Mr. Clark asked how does the Jordan River greenway play into the City's plans? Mayor Money said it is a very important addition to the community. They are sensitive about that area. He discussed the purchase of Mulligans. He said they have put quality developments in the river bottom area. He said they have set the bar high for what they want to achieve in the City. The Council discussed the property that the City has preserved in the river bottoms.

Council Member Colton noted that they have a high standard for their architectural requirements. That will help keep their property values high.

Mr. Clark said they also need to consider the implications that the Mountain View Corridor will have versus the Bangerter Highway. He said the big box uses may want to move to the Mountain View Corridor. Mayor Money said the Bangerter Highway serves the current residents. The Mountain View Corridor will serve the additional residents that will come on the west side of the community. CM Horst said they won't have any big box developments over 100,000 sq. ft. on the Bangerter Highway. Mayor Money said he does not see South Jordan having a lot of big box developments because of their vicinity to West Jordan. Mayor Money discussed the town center planned in the Daybreak community by the Mountain View Corridor. He said they will be developing higher densities and light rail near the Mountain View Corridor.

Council Member Winger said South Jordan wants to be a good team player.

6:00 P.M.

REGULAR MEETING

I. SERVICE GROUP REPORT

A. None.

II. INFORMATIONAL ITEMS AND OTHER BUSINESS

A. CALENDARING ITEMS

Council Member Winger said the Newmont University Graduation is scheduled for May 26, 2006 at 1 p.m. The governor will be speaking.

Council Member Colton said on April 20, 2006 there is a ribbon cutting for Centennial Bank at 10:30 a.m. There is a tour of the water treatment facility at 5:30 p.m. for those that were unable to attend the last tour.

Council Member Colton noted the Daybreak Elementary dedication scheduled for April 25, 2006.

The Council discussed National Law Enforcement Week starting May 16th. The following week is Public Works Appreciation week.

B. COMMENTS FROM MAYOR AND MEMBERS OF THE CITY COUNCIL

1. Committee Reports

Council Member Short discussed the historical marker planned for the Old Fawn Flour Mill. He discussed the progress of the History Center. He said it will be a great place for the community. He said the Historical Committee is appreciative of the City's support.

Council Member Winger discussed the City's emergency preparedness plan. She said they need to make sure that the senior elected officials know the plan well and what their expectations are. Mayor Money said the City has to be prepared to be the first responder. He said they can't rely on other communities for the first few days.

Council Member Colton said the senior citizens have a very active program. There are three openings on the committee.

The Council met the potential candidates for the Senior Citizens Committee; MaryAnn Mutsch and Roland Arnold. Ms. Mutsch has been active in the senior citizens group. She has a desire to be involved in the leadership. Ms. Mutsch said she has lived in South Jordan for a little under 2 years. She is teaching computer classes for the senior citizens currently.

Mr. Arnold said he lives in Reunion Village. He has been a day director for the senior citizens for 5 years. He enjoys working at the community center.

Council Member Short said they also have a vacancy on the Board of Adjustments. He introduced Dan Fallows, potential candidate.

Dan Fallows, 2884 Quintail Cir., said he currently works for the Department of Public Safety as a civilian. He said he worked for the Utah Highway Patrol for 17 years. He served on the City's Public Safety Committee in the past.

C. CITY MANAGER BUSINESS

CM Horst asked the City Council to review the tentative budget.

D. NEW BUSINESS

None.

III. GENERAL BUSINESS

A. Welcome and Roll Call

Mayor Money welcomed everyone present.

Mayor Money recognized some scouts present. Scout Troop 517 was introduced. Other scouts (troop number not known) were introduced. Landen Jenkins, scout, was also introduced.

B. Opening Ceremony

1. Invocation

Council Member Colton offered the invocation.

2. Pledge of Allegiance

Dillon Papenfus, scout, led the audience in the Pledge of Allegiance.

C. Motion to Approve Amended Agenda Items, If Any

None.

D. Minute Approval

1. March 21, 2006

Council Member Short made a motion to approve the March 21, 2006 City Council minutes, as printed. Council Member Colton seconded the motion. The vote was unanimous in favor.

IV. AWARDS, PRESENTATIONS

A. None.

V. CITIZEN COMMENT

Devan Peterson, 9671 S. Chavez Dr., said when a fire alarm goes off in a home, sometimes it takes too long for the police to arrive. He said people could die and houses could burn down before the police get there.

Mayor Money said the City is part of the VECC 911 dispatch center. He said some businesses and a few homes will have a direct fire alarm. Most of the time, it requires people to call 911. CM Horst said the call goes to the VECC center and they determine who is the closest and can respond to the call the quickest. He said until the police get the phone call, they can't respond. He said the response time is generally 3-5 minutes and that is usually fast enough to prevent loss of life. He said one problem is that people use cell phones and they don't know where the person is calling from. Sometimes incorrect addresses are given. He said they are working on using satellites to determine the location of the cell phones.

CM Horst said the residents should not dial the fire department directly. He said the Fire Departments back each other up. ACM Shepherd said the closest unit responds to the fire. It may not always be the fire station on Redwood Road.

Kyle Shepherd, 1153 Country Park Cove, expressed concern that some teachers and administrators in their schools do strange things to motivate their students.

Mayor Money said the City doesn't supervise the schools. The Jordan School District has their own superintendent. He said the City manages the police and the crossing guards for the schools.

Ninoah Capelli, 11656 S. Patrick Cir., said he is concerned about roads. He said 11800 South needs work.

Mayor Money said that road belongs to South Jordan, Riverton, Herriman, and the County. CM Horst said the public works staff is trying to work on a plan with other jurisdictions regarding 11800 South. He said it is one of the worst roads in the City. Mayor Money said some of that road will be improved with the completion of The District.

Will Richardson, 11641 S. Country Crossing Road, said he is concerned that teachers aren't getting paid enough. Can the City do anything about that? Mayor Money said no. They have no say and no authority over the School District. He agreed that the teachers are probably not getting paid enough, but it is not something that the City can correct.

VI. SUMMARY ACTION CALENDAR

- A. Ordinance No 2006-07; Restricting Outdoor Culinary Water Use
- B. Resolution No. R2006-24; Authorizing the City to Provide Active Duty Military Personnel a Grant towards Payment of Utility Bills for Duration of Active Duty Military Service
- C. Review of Conditional Use Permit Issued to Tamara Baggett for a Home Occupation Pre-School in the Home for up to 12 Children located at 9668 South 2950 West

- D. Advisory Boards and Committees: Ordinance No 2006-09; Amending Title 2 Chapter 26 of the South Jordan Municipal Code. Resolution No R2006-23; Amending the South Jordan Procedural Guide for the Recruitment and Appointment of Citizens to Serve on City Advisory Boards and Committees

Council Member Marlor made a motion to remove items A. and C. from the Summary Action Calendar and to approve items B. and D. on the Summary Action Calendar. Council Member Colton seconded the motion. The vote was unanimous in favor.

VII. SUMMARY ACTION ITEMS HELD OVER

A. Ordinance No 2006-07; Restricting Outdoor Culinary Water Use

Mayor Money said he fully supports the conservation of culinary water. He said he is concerned about the penalty portion of this Ordinance. He said they should have conservation in the community, but he wonders if they need to go to this degree since the current drought circumstances are improving.

Council Member Colton said he is concerned about the general concept of the Ordinance.

Council Member Winger said she is concerned about the restricted hours. She said she has not had adequate water pressure in the past. CM Horst said that is because everyone is using the water at the same time.

CM Horst said last year, the City Council approved a voluntary encouragement of water conservation. He said if people only conserve water when they are in a drought, people get out of the habit. He said the more they conserve, the better the water pressure that they have.

Mayor Money said they should put the word out that South Jordan continues to support a strong water conservation policy. He said they should also address issues with watering during the day. He said they should also address concerns with water pressures. He said he feels this should be a recommendation, and there should not be a penalty phase. Council Member Colton concurred. He said the graduated water fees are also a deterrent.

CM Horst said staff will move forward with the voluntary policy and an educational program. He said staff will bring the issue back if there are critical areas in the City that they have specific concerns about. Mayor Money concurred.

Council Member Colton made a motion to deny Ordinance No 2006-07, and to launch a conservation education program. Council Member Butters seconded the motion. The vote was unanimous in favor.

- C. Review of Conditional Use Permit Issued to Tamara Baggett for a Home Occupation Pre-School in the Home for up to 12 Children located at 9668 South 2950 West.

CM Horst said last year, when the City Council approved the Home Occupation license, they stipulated a one year timeframe to review it. He said they have had no complaints.

Council Member Colton made a motion to approve File #AP-2005-01, Conditional Use Permit Issued to Tamara Baggett for a Home Occupation Pre-School in the Home for up to 12 Children located at 9668 South 2950 West. Council Member Marlor seconded the motion. The vote was unanimous in favor.

VIII. PUBLIC HEARINGS AND POTENTIAL LEGISLATIVE ACTION ITEMS

- A. Public Hearing – Ordinance No. 2006-02; Amending Development Code, Title 16 with Requirements for Signs within the CF Zone. Ordinance No. 2006-03; Amending Title 16, Chapter 16.04, Section 16.04.340, Building Permits and Certifications of Occupancy. Ordinance No. 2006-06; Amending Section 17.84, Zoning with Requirements and Guidelines for Conditional Use Approvals.

ACM Wall reviewed the background information on this item.

Council Member Butters asked how do they keep track of how long banners are up? ACM Wall said the business is required to get a temporary sign permit.

Mayor Money asked if they have bonds in place for all development improvements, in case they have residents moving into a subdivision and a developer walks away from the project? ACM Wall said yes. He said the bond covers the full cost of the improvements to be installed.

ACM Wall noted that the Homebuilders Association liked the proposed Ordinance better than the City's current policy.

Council Member Short said sometimes adjacent residents want the fence installed before the construction begins. ACM Wall said the improvements have to be completed before the first certificate of occupancy is issued. CM Horst said they can't dictate if the wall is put in first or last. They can require a wall to be constructed if there is an issue that is construed to be a public hazard or if there are large animals, etc.

Mayor Money opened the public hearing. There were no comments. He closed the public hearing.

- B. Potential Action Item – (See VIII. A.) Ordinance No. 2006-02

Council Member Winger made a motion to approve Ordinance No. 2006-02. Council Member Butters seconded the motion. Roll call vote. The vote was unanimous in favor.

C. Potential Action Item – (See VIII. A.) Ordinance No. 2006-03

Council Member Colton made a motion to approve Ordinance No. 2006-03. Council Member Marlor seconded the motion. Roll call vote. The vote was unanimous in favor.

D. Potential Action Item – (See VIII. A.) Ordinance No. 2006-06

Council Member Butters made a motion to approve Ordinance No. 2006-06. Council Member Short seconded the motion. Roll call vote. The vote was unanimous in favor.

E. Public Hearing – Resolution No. R2006-21; Amending the Future Land Use Plan Map from Recreation/Open Space to Low Density Residential. Ordinance No. 2006-16-Z; Amending the City's Zoning Map from A-5 to R-2.5, Generally Located along the East Side of Bangerter Highway between 10000 South and 10200 South

ACM Wall reviewed the background information on this item. CM Horst said the issue is not completely dead, but it does not look favorable that they will get a park in this location. He said they are looking at the land further east. He said the citizens in this area only wanted the R-2.5 zoning. He said to get a park with that zoning, it would require the city to buy, trade, or get a gift of the land for a park.

Mayor Money noted that when the Ivory development was done, the City gave them a higher density on the entire parcel and the developer gave the City 4 acres for a park. He said this is a smaller piece of property. The land in this area has become very expensive.

Mayor Money opened the public hearing.

Michael Martin, 10086 S. 3490 W., said they have a presentation. The City Council determined to have the presentation at a later date, when there is more time.

Mr. Martin said the neighborhood is in favor of the proposed zoning. He said there may have been some things that could have been done to appease some of the people with the R-3 proposal. He said the residents are in favor of keeping the land use consistent. He said the entire field used to be zoned recreation/open space and people initially thought that it would all be a park. He said he would still like a park. He said people were concerned with the R-3 zoning and they were envisioning a fence about 15 feet from the home.

Council Member Colton asked if they do the R-2.5 zoning, the developer cannot donate land for a park? If they do an R-3 zoning, the developer can donate land for a park? Council Member Marlor said the proposal is for R-2.5. It was noted that the citizens, by in large, are in favor of the R-2.5 zoning. CM Horst said even if they move forward with the R-2.5 zoning, they can have additional dialog with the developer regarding the park.

Mr. Martin noted that there are no parks in the area. He was told to schedule his parks presentation with COO Tanner for a future Council meeting.

Mayor Money closed the public hearing.

F. Potential Action Item – (See VIII. E.) Resolution No. R2006-21

Council Member Marlor made a motion to adopt Resolution No. R2006-21. Council Member Winger seconded the motion. Roll call vote. The vote was unanimous in favor.

G. Potential Action Item – (See VIII. E.) Ordinance No. 2006-16-Z

Council Member Colton made a motion to adopt Ordinance No. 2006-16-Z. Council Member Butters seconded the motion. Roll call vote. The vote was unanimous in favor.

IX. PUBLIC HEARINGS AND POTENTIAL ADMINISTRATIVE ACTION ITEMS

A. Public Hearing – Ordinance No. 2006-14-Z; Amending the City's Zoning Map from RM-6 to RM-5, Located at Approximately 3800 West 10800 South.

ACM Wall reviewed the background information on this item.

Mayor Money opened the public hearing. There were no comments. He closed the public hearing.

B. Potential Action Item – (See IX. A.) Ordinance No. 2006-14-Z

Council Member Winger made a motion to approve Ordinance No. 2006-14-Z. Council Member Colton seconded the motion. Roll call vote. The vote was unanimous in favor.

C. Public Hearing – Ordinance No. 2006-15-Z; Amending the City's Zoning Map from A-5 to R-2.5, Located at Approximately 9670 South 1800 West.

ACM Wall reviewed the background information on this item.

It was noted that this property is just north of the EDA area.

Mayor Money opened the public hearing. There were no comments. He closed the public hearing.

D. Potential Action Item – (See IX. C.) Ordinance No. 2006-15-Z

Council Member Short made a motion to approve Ordinance No. 2006-15-Z. Council Member Butters seconded the motion. Roll call vote. The vote was unanimous in favor.

E. Public Hearing – Ordinance No. 2006-17-Z; Amending the City's Zoning Map from R-1.8 to A-5, Located at Approximately 11028 South 2200 West.

ACM Wall reviewed the background information on this item. He said this zone change would allow a larger barn to be built on the property.

Mayor Money asked if there is a motorcycle track on this property? **Lane Myers**, representing Alfred Nelson (applicant), said the motorcycle track is in the back yard of one of the adjacent residences. He said the property west of the canal is being used as a retention pond.

Council Member Short said the only gate to the parcel west of the canal is from the canal road; it is accessed from Triple Crown Estates.

Council Member Butters asked if the pond will remain? He was told yes. Council Member Short said the property is unusable for anything else.

CM Horst clarified that any action taken tonight does not allow a barn to be built.

ACM Wall said there are currently 5 horses on the lot. The property owner would have to get a conditional use permit to determine the number of horses allowed with the new zoning.

Council Member Short asked what is the size of the existing storage barn? Mr. Myers said he is not sure.

It was noted that Mr. Nelson is not living in the existing house on the property.

Mr. Myers said this 5 acres was supposed to remain as Agricultural. There was a clerical error. He said he has a contract with the developer of Triple Crown Estates; it stated that a portion of Mr. Nelson's property could be used as a detention pond. The contract also stated that Mr. Nelson intended to put horses or stables on this property at some time.

CM Horst noted that Triple Crown Estates is zoned for animals, but the CC and R's don't allow large animals.

Mr. Myers said he has helped Mr. Nelson improve the property. There are horses on the property; it varies from 5-10 horses. The plan was to finish the property with a use that is conducive to the area. He said the indoor arena on the proposed barn has stretched the size of the barn. It was noted that the barn issue would come forward at a later date. Mr. Myers said they plan to landscape the property and finish it with curb and gutter.

Mayor Money asked if there is access from the property east of the canal to the retention pond? Mr. Myers said no. CM Horst said there is no possibility of boarding horses on that piece of property. Mr. Myers said there is a canal road on the west side, and now there is one on the east side as well.

Mayor Money opened the public hearing. There were no comments. He closed the public hearing.

F. Potential Action Item – (See IX. E.) Ordinance No. 2006-17-Z

Council Member Short discussed the 5 acre parcel. He noted that much of the property is unusable for horses. He showed where the fences and barns are located. Mayor Money said a barn could be placed on the north side of the property.

Council Member Colton asked about access to the weir. Mr. Myers said the weir is abandoned. There is a walkway access to the weir.

Council Member Marlor made a motion to approve Ordinance No. 2006-17-Z. Council Member Colton seconded the motion. Roll call vote. The vote was 4-1 in favor, with Council Member Short opposed.

Council Member Marlor made a motion to take a break. Council Member Colton seconded the motion. The vote was unanimous in favor.

X. OTHER BUSINESS

A. Clarification of Intent and Purpose of City Council Reports Posted to the South Valley Journal

Council Member Marlor said he feels like the purpose for the City Council's articles in the South Valley Journal is to communicate and provide a positive public relations opportunity for the citizens. He said he felt that the last article was erroneous and divisive. He said it was very negative. He does not feel that is the purpose of those articles. He said he is willing to discuss this issue, or in the future, the articles should be approved by the majority of the Council and submitted by the City Manager.

It was noted that CM Horst gave the Council some clarifications and answers to questions as a result of that article. That needs to be communicated to the public.

Council Member Winger said she is not in favor of censoring the articles. She said she believes in freedom of speech. She said she hopes that the articles promote the City and represent the City Council. Council Member Marlbor said it is different when someone writes a letter to the editor and it comes from an individual. He said these reports say that they are South Jordan Council reports.

Council Member Short said he did not feel that he was being negative with his article. He does not have a personal vendetta. He said he just felt that there were some issues to be looked at. He has not had any negative feedback from the article. He is not trying to downgrade what the City Council does. He said there are reasons to have and use development agreements, but the public needs as much say as they can have.

Council Member Marlbor said the article could have been written in a way that wasn't confusing. They need to help people understand issues instead of saying that the City is not doing it right and that the issues are confusing and that the public is being stomped on.

CM Horst said the newspaper titles the section City Council reports. Some cities send the articles collectively; some are written individually.

Mayor Money said he has a problem with censorship. He does not feel that Council Member Short had negative connotations in mind. Council Member Butters and Council Member Marlbor both indicated that they have had negative feedback from the article. Mayor Money said the article came across to him that Council Member Short is in a learning stage. He said his problem with the article is that it was too open and searching for answers.

Mayor Money said the higher purpose for the City Council is to do what is the best for the City. He said they may not all agree. They learn from each other. At the end of the issue, they forget it and get together on the next issue. He said he has not seen this City Council hold grudges since he has been Mayor.

Council Member Colton said some direction maybe should be given to the new City Council Members to encourage them to sell the City with their articles. Mayor Money said there were just some misunderstandings with this situation. They should move on.

Council Member Marlbor said they should either write their letters to the editor individually, or the City Council reports should be positive, informative articles. He said he does not want to attach his name to negative articles. Mayor Money said if there are concerns, that can be expressed in City Council meetings.

B. City Board / Committee Member Term Expirations – Appointments
and/or Reappointments

Council Member Colton made a motion to nominate MaryAnn Mutsch to serve on the Senior Citizens Committee, replacing Elray Lundscog and to fill the balance of his term. Council Member Winger seconded the motion. The vote was unanimous in favor.

Council Member Butters made a motion to nominate Roland Arnold to serve on the Senior Citizens Committee, replacing Charles Blouch. Council Member Winger seconded the motion. The vote was unanimous in favor.

Council Member Short made a motion to nominate Dan Fallows to serve on the Board of Adjustments. Council Member Winger seconded the motion. The vote was unanimous in favor.

- C. Application to Appeal the Decision of the City's Planning Commission on 2/28/2006 Concerning Access Through River Park Corporate Center (University of Southern Nevada Site, 10962 South River Front Parkway) to the Property Directly West.

City Attorney Geilmann said this is the appeal of the Planning Commission's decision. He reviewed the procedures for this appeal. He said this is not a public hearing. They discussed allowing each side to make a presentation. Mayor Money asked when is the appropriate time for the City Council to ask questions? City Attorney Geilmann said after both sides have made their presentations.

Mike Hutchings, representing the Edmunds family who owns property west of RiverPark 10. He said the Edmunds would like to require an access driveway or a public street along the south side of the proposed site plan. He said requiring the stub road, or an access drive along the south side, would not negatively impact the development in any particular way. Once they saw the proposed site plan, it became apparent that this would be the best and most expeditious access to their property.

Mr. Hutchings referred to section 16.26.20 of the City's Ordinances that says, all new developments, except where privately controlled access is approved, shall have access to a public street. Any development requiring site plan or plat approval shall meet the minimum street and access requirements of this chapter. In subparagraph D., it says reciprocal and shared driveways shall be required as deemed necessary by the City Council. All such driveways and accesses shall be documented with easements and/or agreements recorded with the Salt Lake County Recorder.

Mr. Hutchings also referred to the City Code, section 16.04.180 that says, the following requirements pertaining to streets shall be incorporated into subdivision, condominium, SRD, and site plan design and implemented by the developer. One requirement in subparagraph d. says subdivisions and other developments shall be designed to provide future access to adjoining vacant parcels, where appropriate, with driveways and stub streets built to city standards. It further states that developments shall also be designed so

that existing stub streets and driveways in existing development will be connected to the proposed streets and accesses.

Mr. Hutchings said in this case, they have a developer that is refusing to provide a stub street. It is the policy of South Jordan City to require stub streets all throughout the City. There are numerous stub streets that have been required by the City over time. He said the Planning Director indicated to him that since he has been at the City, there has never been an occasion where a developer has refused to provide a stub street.

Mr. Hutchings said he believes that the developer won't provide the stub street because they don't want the competition. He said he does not feel that is an appropriate issue for the City Council to consider; competition is inherently good. He said the landowners are intent on building quality office buildings, in harmony with what is being built in the RiverPark development. The landowners are willing to pay their way. Access through the proposed site plan is the best and most expeditious way to provide public access to a street.

Mr. Hutchings said the City has required shared access in the Copper Ridge Office Park, the Albertson's grocery store, and the Astro Burger development. He said it has been the policy of the City to require stub streets and access agreements. He asked that the City implement their policy, and what he believes is required by the mandatory language in the city code. He said he believes the law that is there is for a good purpose and that is to not land lock adjoining property owners. He said they don't see any negative impact to RiverPark, whatsoever. He asked that the City Council give them the access agreement at the south end of the site plan.

Vic Taylor, real estate lawyer with Parr Waddaps in Salt Lake City (read a prepared statement and gave permission for it to be attached (Attachment B)). Mr. Taylor showed a map of the area, including their property and the Edmunds' property.

Mr. Taylor said that Mayor Money has indicated in past meetings that he was concerned about the lack of an overall development plan, and he wondered if the city was premature in granting the zoning change on the Edmunds' parcel because there was no overall plan. He discussed the need for a master plan for the land west of RiverPark.

Mr. Hutchings said they have been told by city staff that allowing access to 1055 West won't work for purposes of the office park that the Edmunds wish to build. He said he does not believe this is a taking. He said the Nolan and Dolan case makes it clear that any developer can be required to provide certain benefits that are roughly proportionate to the development. He believes in this case, the rough proportionality would be the stub road or access drive to be allowed against the Edmunds' property on the southern end. There is already a driveway planned in that area; they are just asking that the driveway be extended to the Edmunds' property and that Edmunds be allowed to have access. He believes that can be done with a reciprocal easement agreement, which the city has required of other developments and which the city's law allows and he believes the law requires. He said if this is an unconstitutional taking, the city has a far greater problem

and that is all the other people that the city has required to build stub roads all these years, pursuant to mandatory language in the city Ordinance. He said the city has never had a circumstance like this before where a developer is refusing to provide access for anti-competitive reasons. He said they have made efforts to work out the access issue, but they have been re-buffed. He said they do not see a burden to RiverPark. How is RiverPark impacted negatively? He asked the City Council to rule in favor of the city Ordinances and their policy, which requires stub roads and cross access easements between adjoining landowners.

Mayor Money said with the potential litigious atmosphere, he is concerned about putting the city in a negative light with the questions that they ask. City Attorney Geilmann said the City Council is acting in a quasi judicial capacity. They can ask questions about the presentations. If they feel like there are issues that need to be addressed internally, the City Council could go into an executive session to discuss that.

The City Council looked at the site plan to determine where the proposed driveway is to be located.

Mayor Money asked how large is the University of South Nevada's building? **Kent England**, RiverPark, said 119,000 sq. ft. Mayor Money asked how many parking stalls are on the site? Mr. England said close to 500, for both students and faculty. It was noted that the parking requirement is higher for this use than a typical office building. Mayor Money said the site plan does not show the width necessary for an ingress/egress for an additional office building.

Mr. Hutchings said the width of the driveway is 29 ft. With very little effort, it could be adjusted to provide the access that the Edmunds are asking for. He said if there was any loss of parking stalls, the Edmunds are willing to trade ground and make up for any lost parking stalls to the applicants. He said the Edmunds' property is closer to entrances than any parking stalls that they would lose as a result of the re-configuration or widening of the driveway or the stub road. He said RiverPark would pick up better parking.

Kent England said when they do a site plan, they balance the landscaping and parking requirements with the footprint of the building. Although Mr. Hutchings said it is not a problem to just adjust the site plan, they go to great lengths to make sure that their site plans meet the requirements and the city needs. Of course it is not a problem for Mr. Hutchings, because RiverPark is doing all the work re-adjusting. He said they have presented a site plan that meets all of the city requirements. They do have future buildings designed to the north so every parking stall and every bit of landscaping counts. He said the problem is that this is not a mutual and reciprocal arrangement; it is entirely beneficial for one party. He said all of the problems go to RiverPark and all of the benefits go to Edmunds.

Council Member Colton asked if Edmunds have explored the option of access to the north? Mr. Hutchings said they can provide access over the canal from the north to the Edmunds property, but that is fraught with problems. They would have to cover the

canal, make agreements with the canal company; there are engineering concerns and a lot of extra expense. They would also be bringing people onto the Edmund's property in a more circuitous way rather than bringing them onto the property in a more direct way associated with this request. He said 1055 West won't work for various reasons. Mr. Hutchings said they feel that as adjoining landowners, they are entitled to the access. He said they are willing to pay their share and work this issue out. He said RiverPark has indicated that they are not willing to give an access at any price.

Mayor Money said they have done some wise planning in the area by allowing for the existing stub roads in RiverPark. He said they have not allowed a stub road to every existing property to the west. He said he feels the real issue is timing. He said the Edmunds would like to develop their property sooner than what the timing issue will allow for the rest of the property around them. At some point, the city should look at the whole quadrant and see what the future use of that property is going to be.

Council Member Marlbor asked how is the desired access reciprocal in nature? Mr. Hutchings said RiverPark 10 will be able to use this driveway for their own purposes to get into their own parking lot. The Edmunds would like to use the access to their property to the west so they will both have use of their property. Mr. Hutchings said they are willing to allow some of their property to be used for parking for RiverPark. He said that is valuable given the nature of the building and the close proximity of the property to the RiverPark property.

Mr. Taylor said the Edmund's proposal confers no benefit to them and they are not looking for any use of the Edmund's property.

Council Member Marlbor asked how Mr. Hutchings sees no burden being placed on RiverPark? Mr. Hutchings said he does not see any burden of any depreciable degree. He has not heard RiverPark articulate a burden, except that they don't want any competition. That is the only burden that he is aware of. He said he does not see how the stub road negatively effects the site plan, the use, and the utility of their property. He said he does not think it is a burden especially in light of the city codes requirement to provide access to adjoining vacant parcels.

Council Member Marlbor said it appears to him that RiverPark has complied with the letter of the law regarding stub roads. He asked if reciprocal driveways are typically shared as far as the burden of the cost? CM Horst said there are times when there is payment; other times they feel that there is mutual benefit and they share in the cost. In the past, these issues have predominately been worked out by developers prior to coming to the City Council.

Mayor Money asked if the Edmunds are willing to pay fair market value of the property, plus the cost of all utilities getting them to the site? Mr. Hutchings said they have made offers in the past, but they have been re-buffed. He said the Edmunds currently don't have a stub road to connect to. They are willing to be fair and reasonable to pay money to make things right. Mayor Money said that logic could be used for all property west of the

canal, that they don't have a stub road off of RiverPark connecting their properties either. Mr. Hutchings said he believes that the ordinances and the practices of the city requires the access. He believes any adjoining landowner can ask the city for access. He said the appropriate time to do that is during the site plan. Most of the time, the matters are worked out ahead of time.

Mayor Money asked if Mr. Hutchings would agree that the Edmunds property is not land locked? Mr. Hutchings said he believes it is land locked. 1055 West provides an access, but it cannot accommodate the kind of access that is needed for the O-S zone. He said there could be future construction to accommodate that, but staff has said that is not the best alternative. He said there is also a disagreement as to whether the Edmunds have a contractual right to access.

Council Member Marlor said it appears that the cost of access goes beyond the strip of land that would connect RiverPark to Edmunds. There is a lot of infrastructure cost that goes from this point to 10600 South. There is a burden of cost that has been placed on RiverPark to put in all of that infrastructure. Mr. Hutchings said they are willing to pay their proportionate share for those costs. There would be costs of sewer, water, and storm drain. The developers of RiverPark have entered into reimbursement agreements with the City and, to some degree, have been reimbursed for some of the improvements that they have put in through impact fees and other mechanisms. He said they are not asking for a free ride.

Council Member Colton said at the time of rezoning of the Edmunds parcel, the question of access was repeatedly raised, but they were told that they could not ask those questions because it was not the site planning process. He said he felt that it was a major issue with this piece of land. He asked if they should look at those kinds of issues when they look at zoning changes? He said when they changed the zoning, they have landlocked the property. City Attorney Geilmann said he would answer that question at the appropriate time, when it is not site specific.

Council Member Marlor made a motion to go into closed meeting to discuss matters pertaining to litigation. Council Member Butters seconded the motion. The vote was unanimous in favor.

CLOSED MEETING

Council Member Marlor made a motion to come out of closed meeting. Council Member Colton seconded the motion. The vote was unanimous in favor.

Mayor Money called for questions and discussion on this issue.

Council Member Winger recused herself from the vote. She said she serves on the Executive Board and the Board of Trustees for the University of Southern Nevada.

Council Member Marlor noted that David Layton, one of the owners of RiverPark is his brother in law. He said he is also good friends with Gary Edmunds and his family. He said he has no other tie with either party. He said he does not feel that he needs to recuse himself.

Mayor Money said he hopes that the parties could have gotten together and worked this issue out.

Council Member Butters made a motion that based upon the record that has been made in this meeting by representatives of RiverPark, University of Southern Nevada, and representatives of the Edmunds property, they find it in the best interest of the City of South Jordan to deny the Edmunds' appeal, and the decision of the Planning Commission to approve the University of Southern Nevada site plan without access to the Edmunds' property be affirmed and the site plan as presented be approved. Council Member Colton seconded the motion. Roll call vote. The vote was 4-0 in favor, with Council Member Winger recusing herself.

ADJOURNMENT

Council Member Winger made a motion to adjourn. Council Member Marlor seconded the motion. The vote was unanimous in favor.

The April 18, 2006 City Council meeting adjourned at 9:56 p.m.

This is a true and correct copy of the April 18, 2006 City Council meeting minutes, which were approved on May 2, 2006.

Rana M. West

South Jordan City Recorder

City Council Meeting

4-18-06

Attachment 'B'

* Before I make my presentation, I would like to respond to a few of the points that have been made by Mr. Hatching.

My name is Vic Taylor and I am a real estate lawyer with the law firm of Parr, Waddoups, Brown, Gee & Loveless in Salt Lake City. We represent the developer of an approximately 120,000 square foot project leased to the University of Southern Nevada in the RiverPark Corporate Center, which is now moving forward on an expedited basis with a projected December 1 occupancy date. Adjacent to the West of the University project is an empty field owned by the Edmunds family.

Planning Commission
Only recently, in September '05, the Edmunds persuaded the Planning Commission to change the zoning of their property from Agricultural (A-5) to Office Space (O-S). The concern raised at the Planning Commission meeting regarding such change ^{was} ~~is~~ that although the Edmunds property has legal access over 1055 West that is suitable for its current agricultural use, it has no access suitable for a commercial use. For example, at the Commission meeting, then-citizen Larry Short said "he hates to see the zoning change if they don't have access to the property. He said they should wait until an agreement [regarding access] is ~~reached~~ ^{reached} ~~obtained~~."

City Council
Consistent with that view, one week later, the City Council rejected the change because of the lack of commercial access. At that meeting, Todd Hadley, representing RiverPark, said "there is no opportunity for access now or in the future [over the RiverPark Corporate Center]." To which Gary Edmunds said "if the zoning [change] fails, they will communicate with the City about other viable

options for access to their property.” “Council Member Colton said if they can’t get access, they may have to rezone the property back to a residential zone. He said they should wait until the access issue is resolved. [He] said the access is an important part of the land. . . [and] the access will determine if this property should be office or residential.”

by Council 2
When the Edmunds again appeared before the City Council in December, requesting reconsideration of the zoning change, Gerald Anderson, the Edmunds’ partner, said “if the zoning gets approved, they will work out the access issues with the site plan. He said they could look at using the canal easement for access. [But he] asked that the zoning be approved and to let them work out the access and site plan issues.” Apparently based on these representations—that the Edmunds would work out the access issues themselves, as part of their site plan approval process, with someone other than RiverPark ^(who had made it clear that access would not be provided)—the zoning change was approved. The Edmunds commitment to solve the access themselves agrees with the statement made in the first meeting by Council Member Marlbor, “*if the applicant does not have access to their property, that is their problem.*” ~~XXXXXX~~

RP - Planning Comm
However, when RiverPark came before the Planning Commission in February 2006 for final approval of the University site plan and conditional use permit, the Edmunds showed up with their legal counsel, Mike Hutchings, and attempted to make the access issue RiverPark’s problem. At that meeting, Mr.

Hutchings incorrectly represented that RiverPark had a *contractual* obligation to provide access ^{and utilities} to the Edmunds, and argued that the Commission's approval should be postponed indefinitely unless and until RiverPark provided such access ^{and utilities}. This argument was made notwithstanding the many public representations made by the Edmunds and Gerald Anderson that if the zoning change was granted, the Edmunds themselves would work out the access issues. Fortunately, the Planning Commission rejected Mr. Hutchings' request and granted approval ^{of RiverPark's site plan and conditional use permit.}

~~Appeal~~ Now Mr. Hutchings has filed an appeal of the Planning Commission decision, on behalf of the Edmunds, saying: "The decision of the Planning Commission, if allowed to stand, prevents my clients from obtaining access to their property for development of an office site which is now zoned for OS use." This statement is inaccurate. The decision of the Planning Commission does not prevent the Edmunds from doing anything; it merely allows RiverPark to develop the University parcel. The Edmunds are still perfectly free, without hindrance from the Planning Commission or anyone else, to do that which they represented to the City Council they would do, namely, to work out their access issues themselves.

Mr. Hutchings also says, "My clients will be effectively landlocked if the decision of the City Planning Commission is allowed to stand and would not be able to develop their zoned property for office use." This statement is also

inaccurate. First, *the Edmunds property is not landlocked*. As has been acknowledged in various public meetings by the Edmunds, the Edmunds property has long-existing legal access over 1055 West, sufficient for agricultural use. What it lacks is access suitable for the Edmunds' proposed commercial development. But that has nothing whatever to do with the approvals granted to RiverPark.

Clearly, it is not the burden of RiverPark, a private landowner, to solve the Edmunds' commercial access ^{and utility} issues. It ~~is~~ ^{appears} clear from the record that the principal if not the sole reason for the City Council agreeing to that zoning change was that it received the assurance of Gerald Anderson that they would "work out the access issues with the site plan." The ^{burden} responsibility for site planning and access should be left with the Edmunds as they agreed, and should be left to the time, if ever, that the Edmunds come in for site plan approval.

The most ^{significant} ~~revealing~~ statement in Mr. Hutchings' letter is: "My clients are willing to pay fair market value (less credits which they claim are owed from the applicant) for this access, as well as for sewer, water, storm drainage and other appropriate utility uses." So now that private negotiations with adjacent landowners have failed, and claims of contractual rights have been shown to be without basis, Mr. Hutchings' plea is for the City to use its governmental powers to condition the site plan and conditional use permit approval for the University

project on RiverPark selling various rights-of-way and easements to the Edmunds, which RiverPark previously has made clear it is unwilling to do. And Mr. Hutchings is ~~not only~~ ^{not only} asking for an access right-of-way and easement, but also for rights-of-way and easements for sewer, water, storm drainage and all other utilities the Edmunds may need for the development of their property.

Constitutional Problems
Unfortunately for the Edmunds, the City is not ~~in~~ ^{not} in a position to force RiverPark to provide the requested rights-of-way and easements across its property without running afoul of prohibitions against unconstitutional takings. Specifically, the U.S. Supreme Court cases of Nollan and Dolan preclude unconstitutional "exactions" imposed by local authorities as part of the approval process. John Geilmann has agreed that to require RiverPark to give an easement over its property as a condition to site plan approval would be ~~such~~ an exaction. Strict standards established by the U.S. Supreme Court dictate whether an exaction can survive a constitutional challenge. ^{We believe that} Taking a property right from one private owner simply to serve the interests of another owner when no private agreement or recorded easement exists is clearly constitutionally impermissible under these standards, as more fully set forth in the memoranda we previously have given to you.

Dev. Code
Further, the Edmunds position is not aided at all by Chapter 16.26.020 or any other provision of the City Development Code. Any attempt to apply that

provision to this situation would be an obvious misapplication. Sections C and D of that Section provide (in part) as follows: "Accesses shall be designed with right angles to public streets. Driveways and streets shall be aligned with other driveways and streets as required by the city council. Reciprocal and shared driveways shall be required as deemed necessary by the city council."

This Code Section uses the phrase "reciprocal and shared," which means that both parties receive a benefit. This provision might be used, for example, when two parcels of property abut a public street and share a driveway, where the entering lane is located on one property and the exiting lane is located on the other.

That would be a case of a reciprocal and shared driveway. ^{But this} ~~This~~ Code Section is clearly inapplicable here—there is no reciprocity or sharing contemplated by the Edmunds' request. Instead, the Edmunds are asking for the City to impose unilateral rights-of-way and easements for access and utilities over private property owned by RiverPark for ^{the Edmunds'} ~~their~~ sole use and benefit. RiverPark receives absolutely nothing from the Edmunds in return. This obviously ^{we do not believe that} does not fall within the clear ^{the examples provided by} language of this provision of "reciprocal and shared." ^{are not similar to this situation.}

Summary In summary, the Edmunds property has legal access suitable to its use as agricultural property. The zoning change permitting office use was granted based primarily on the Edmunds' representation that they would be able to obtain access over adjacent property other than that owned by RiverPark, because prior to the

time the zoning change was granted, RiverPark had made it clear to the Edmunds and the City Council that RiverPark would not grant such access. The Edmunds apparently have so far been unsuccessful in obtaining such access from Life Time Fitness or any other adjacent property owner. By their appeal of the RiverPark site plan approval, the Edmunds are improperly asking the City to force RiverPark to sell to the Edmunds the commercial access and utility easements that they have thus far been unable to obtain by themselves. RiverPark remains unwilling to grant this access or these utilities, which is its constitutional right as a private property owner. ^{It is the view of RiverPark that} This appeal must, therefore, necessarily be dismissed because to do otherwise would be an unconstitutional "exaction" on the RiverPark property. If the City attempted to impose such an exaction in this case or to exercise its powers of eminent domain to condemn rights-of-way and easements across the RiverPark property, the unavoidable result would undoubtedly be a very lengthy and expensive battle in the courts. One which we believe the City would lose. But whether or not the City prevailed in what would clearly be a very expensive and time consuming undertaking, if the City decides to carry the Edmunds' water in this matter, how could it resist all of the other ~~would-be~~ ^{hopefuls} developers that would line up and ask the City to do the same thing for their properties?

In reality, the access and other issues that the Edmunds face with respect to their property are no different than those faced by any other landowner wishing to

change the zoning of, and develop, its property. With access and infrastructure being large obstacles to development, landowners often are forced to wait considerable periods of time until the area is ripe for development.

As you know, RiverPark and South Jordan City planners worked diligently in the late 90's to allow for development of the area to the West of RiverPark by master planning two access points from RiverPark to that area, which access points have been installed as planned, as shown on this drawing [DRAWING]. What is missing in the entire discussion regarding the Edmunds property is a comprehensive master plan for the areas West of RiverPark, including the routing of streets and utilities from the two stub roads our clients have installed, and a plan for how that development will tie into 106th South Street. Once this process is completed, it will be necessary for one or more developers to assemble the land, rezone the property in a coordinated and planned way and install the necessary infrastructure. After that happens, the Edmunds will then be able to develop their property. It really is in no one's long-term interest to allow piecemeal development that does not follow a well-thought out master plan, as many other cities previously have demonstrated.

This is consistent with the comments made by Mayor Money at both of the City Council meetings described above. In the first meeting, "Mayor Money said they need to look at the whole area, and decide what is best for the community and

*Explain - these are the
stub streets
that
Mike
mentions*

the people who live in this area.” And in the second meeting, “Mayor Money said he is not opposed to the O-S zone, but he wonders if they are premature doing this without also addressing the property to the North. He said he would like a comprehensive plan with the neighbors and the landowners in the area.” This still appears to RiverPark to be the best approach for the good and long-term interests of the South Jordan community and its citizens. Thank you very much. Any questions?